

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

LAWRENCE E. RUSSELL and
MARY J. RUSSELL,

Plaintiffs,

vs.

HOWMEDICA OSTEONICS CORP.,

Defendant.

No. C06-4078-MWB

ORDER

On January 22, 2008, the defendant filed a motion to exclude the testimony of Mari S. Truman, one of the plaintiffs' designated expert witnesses. Doc. No. 60. After briefing and argument, on April 2, 2003, the court denied the motion. Doc. No. 77.

On April 11, 2008, Howmedica filed a motion asking the court to reconsider its order. Doc. No. 78. In the brief filed in support of the motion, Howmedica points out what it believes to be the shortcomings in the court's order, and proposes entry of an order granting the motion to reconsider and excluding the testimony of Ms. Truman.

There is no specific provision for a "motion to reconsider" under the Federal Rules of Civil Procedure. See *Murray v. Solidarity of Labor Org. Int'l Union Benefit Fund*, 172 F. Supp. 2d 1155, 1160, FN1 (N.D. Iowa 2001) (Bennett, J.). In fact, it appears from the defendant's brief that it actually is attempting to appeal the court's order denying the motion to exclude.¹

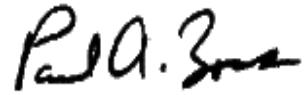
The motion to reconsider (Doc. No. 78) is **denied**. If the defendant intended to appeal the court's order, it should file a timely appeal from the order. *See* LR 72.1 and

¹In its brief, the defendant states, "Pursuant to Fed. R. Civ. P. 72(a), the district judge must consider timely objections to a magistrate's order and modify or set aside any part of the order that is clearly erroneous or is contrary to law." Doc. No. 78-2, p. 3. This citation is to the provision in the Federal Rules providing for appeals from rulings by magistrate judges on nondispositive matters.

Fed. R. Civ. P. 72(a). The motion to reconsider does not toll the time for appealing from the order. *Cf. Murray, supra*, at 1160-61. The deadline for filing any such appeal is **April 16, 2008.**

IT IS SO ORDERED.

DATED this 15th day of April, 2008.



PAUL A. ZOSS
CHIEF MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT